



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JUL 23 2014

William J. McGinley, Esq.
Jones Day
51 Louisiana Avenue, NW
Washington, DC 20001-2113

RE: MUR 6475
Andrew J. McCrosson, Jr.

Dear Mr. McGinley:

This is in reference to the complaint you filed with the Federal Election Commission (the "Commission") on May 25, 2011, concerning Andrew J. McCrosson, Jr. The Commission found that there was reason to believe Mr. McCrosson violated 2 U.S.C. §§ 432(c), 434(b), and 439a(b), provisions of the Federal Election Campaign Act of 1971, as amended, and conducted an investigation in this matter. On November 1, 2012, the Commission accepted a conciliation agreement signed by the respondent. The Commission, subsequently, closed the file in this matter on July 17, 2014.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the agreement is enclosed for your information.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Ana Pena Wallace s, *APW*

Ana Pena Wallace
Attorney

Enclosure
Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Andrew J. McCrosson, Jr.

MUR 6475

RECEIVED
FEDERAL ELECTION
COMMISSION
2012 OCT 16 AM 10:57
OFFICE OF CLERICAL
COUNCIL

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission" or "FEC") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities and a complaint filed by LoBiondo for Congress. The Commission found reason to believe that Andrew J. McCrosson, Jr. ("Respondent") knowingly and willfully violated 2 U.S.C. §§ 432(c), 434(b), and 439a(b), provisions of the Federal Election Campaign Act of 1971, as amended, ("the Act").

NOW, THEREFORE, the Commission and Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. LoBiondo for Congress ("Committee") is the principal campaign committee of Congressman Frank A. LoBiondo.

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2. Andrew J. McCrosson, Jr. served as the Committee's treasurer and custodian of records from 1992 until August 2010. McCrosson's duties with the Committee included signing contracts with vendors, processing invoices from vendors, writing checks and disbursing Committee funds, entering disbursement information into the Committee's Aristotle software, reconciling bank accounts, and preparing and filing FEC reports.

3. The Act prohibits any person from converting contributions to a Federal candidate for personal use. 2 U.S.C. § 439a(b)(1). "Personal use" means any use of funds in a campaign account of a present or former candidate to fulfill a commitment, obligation or expense of any person that would exist irrespective of the candidate's campaign or duties as a Federal officeholder. 11 C.F.R. § 113.1(g). The term "person" includes individuals and committees. 2 U.S.C. § 431(11).

4. Under the Act, a treasurer is required to accurately keep an account of and report receipts and disbursements. See 2 U.S.C. §§ 432(c)(5), 434(b)(2), (3), (4), (6). Committee treasurers and any other person required to file any report or statement under the Act and the Commission's regulations are also personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it. 11 C.F.R. § 104.14(d).

5. A knowing and willful violation of the Act requires full knowledge of all the relevant facts and a recognition that the action is prohibited by law.

6. From 1994 through 2010, McCrosson wrote checks to himself from the Committee's bank account totaling \$458,000 without authorization. McCrosson used the funds to pay for personal expenses, including a federal tax lien, home mortgage payments, college tuition payments, and other living expenses.

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7. McCrosson failed to keep Committee records of the disbursements to himself and failed to report the unauthorized payments on the Committee's FEC disclosure reports. He also reported false cash-on-hand balances to hide the unauthorized disbursements. As a result, the Committee's disclosures of its cash-on-hand balances and disbursements to the Commission were inaccurate. In 2010, the Committee's reports overstated its cash-on-hand balances by approximately \$541,853.39.

8. To further conceal the unauthorized disbursements, McCrosson created fictitious investment accounts to justify the cash-on-hand discrepancies. McCrosson manufactured a fictitious letter on Committee letterhead addressed to a representative of Wachovia Securities referring to \$455,539.09 in certificates of deposit that did not, in fact, exist. He also created a false schedule of investments for the new Committee treasurer's review, falsely stating that the campaign owned investment accounts with a balance of \$489,327.32. To prevent discovery of his theft, McCrosson also delayed providing campaign financial documents to the Committee's new treasurer.

9. McCrosson pleaded guilty on March 4, 2011, to wire fraud and conversion of campaign funds in connection with his theft of Committee funds, in violation of 18 U.S.C. § 1343 and 2 U.S.C. §§ 439a(b) and 437g(d)(1)(A)(i), and was sentenced on September 7, 2011, to 30 months in prison, 100 hours of community service, and 3 years of supervised release. He is further subject to debt and occupational restrictions, and was ordered to pay \$458,000 in restitution.

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V. Respondent knowingly and willfully violated 2 U.S.C. § 439a(b) by converting Committee funds for his own personal use. Respondent filed false reports with the Commission, and failed to accurately keep an account of and disclose disbursements and cash-on-hand balances, in knowing and willful violation of 2 U.S.C. §§ 432(c) and 434(b).

VI. Respondent will take the following actions:

1. In ordinary circumstances, the Commission would seek a civil penalty based on the knowing and willful violations outlined in this agreement pursuant to 2 U.S.C. § 437g(a)(5)(B) of up to 200 percent of any contribution or expenditure involved in such violation. However, the Commission is taking into account the fact that Respondent Andrew J. McCrosson, Jr., through the submission of financial documentation to the Commission and additional representations, has demonstrated that financial hardship prevents him from paying a civil penalty in this matter. These representations include that Respondent McCrosson has no significant assets, has pleaded guilty and is currently incarcerated for a criminal matter arising from his embezzlement, and was ordered by the U.S. District Court of New Jersey to pay \$458,000 in restitution to the Committee. The Commission regards these submissions and representations as material representations. Due to the mitigating circumstances presented by Respondent McCrosson's financial condition, the Commission agrees that no civil penalty shall be due. If evidence is uncovered indicating Respondent's financial condition is not as stated, a civil penalty of up to one hundred sixteen thousand dollars (\$116,000) shall be immediately due, pursuant to 2 U.S.C. § 437g(a)(5)(B).

2. Respondent is prohibited from working or volunteering for a federal political committee in a capacity involving the committee's fundraising or finances for a period of 10 years from the effective date of this agreement.

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3. Respondent will cease and desist from violating 2 U.S.C. §§ 432(c), 434(b), and 439a(b).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C.

~~§ 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance~~

with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondent shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

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X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:


Anthony Herman
General Counsel

BY: 

Daniel A. Petalas
Associate General Counsel
for Enforcement

Date 11/7/12

FOR THE RESPONDENT:


Andrew J. McCrosson, Jr.Date 10.10.2012